REMARKS

Claims 1-39, 48, 49, 59, 60 and 61 are currently pending in this application. Claim 1 has been amended. Claims 40-47 and 50-58 have been cancelled without prejudice. Applicant reserves the right to prosecute these claims in a continuation application.

Claims 39, 48, 49 and 59 have been withdrawn as the result of an earlier restriction requirement. Applicant retains the right to present claims 39, 48, 49 and 59 in a divisional application if they are canceled from the present application.

New claims 60 and 61 have been added. Support for claims 60 and 61 is found at pages 79-80 of the specification as originally filed. Applicant respectfully requests reconsideration in view of the following remarks.

Applicant's Response to Rejections under 35 U.S.C. §112, Second Paragraph

Claims 1-38, 40-47 and 50-58 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite.

The Examiner contends that the term "prodrug" renders the claims indefinite because one skilled in the art cannot say which prodrug is intended. Applicant has amended claim 1 to remove the term "prodrug," and as claims 2-38 depend therefrom, Applicant submits that the rejection has been overcome. Claims 40-47 and 50-58 have been cancelled herein, as discussed below. Therefore, reconsideration and withdrawal of the rejection is appropriate and respectfully requested.

Applicant's Response to Rejections under 35 U.S.C. §112, First Paragraph

Claims 40-47 and 50-58 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement.

Applicant has cancelled claims 40-47 and 50-58 herein, and respectfully submits that the rejection has been overcome. Reconsideration and withdrawal of the rejection is appropriate and respectfully requested.

Applicant's Response to Double Patenting Rejection

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of allowed co-pending U.S. Application No. 10/000,820, now U.S. Patent No. 6,706,718 (hereinafter "the '718 Patent"). Applicant respectfully traverses the rejection.

More specifically, the R group in the '718 Patent's formula (I) corresponds to the $-NR^1R^3$ moiety in the compounds of the present invention. Although R in the '718 Patent's formula (I) is defined to include $-NR^1R^2$, the definitions of R^1 and R^2 cannot encompass Applicant's claimed compounds. Neither the R^1 nor the R^2 group of the '718 Patent teaches the R^1 group as recited in Applicant's claimed compounds. In particular, Applicant's claims define R^1 as:

> **selected from the groups: C_3-C_{10} membered carbocycle substituted with 0-5 R^4, and 3-10 membered heterocycle substituted with 0-5 R^5, provided that if R^1 is phenyl then R^1 is substituted with 1-5 R^4.**

In contrast, the '718 Patent's definitions of R^1 and R^2 are as follows:

> **R^1 is selected from the group: H, halo, -CN, C_{1-4} haloalkyl, C_{1-4} alkyl, phenyl, and benzyl;**
>
> **R^2 is selected from the group: H, C_{1-4} alkyl, phenyl, and benzyl;**

(the '718 Patent; Col. 32, lines 41-44).

The '718 Patent's R^1 and R^2 groups do not include a carbocycle or heterocycle as defined above for R^1 of the present invention. The only cyclic groups contained in the '718 Patent's

definitions of R^1 and R^2 are phenyl and benzyl, neither of which is substituted. In contrast, Applicant's definition of R^1 includes substituted phenyl, i.e., "if R^1 is phenyl then R^1 is substituted with 1-5R^4." Therefore, the '718 Patent's compounds do not encompass this group. The only other cyclic group taught by the '718 Patent is benzyl. Benzyl is a $C6H5CH_2$- radical, in which the linkage to the N atom of the NR^1R^2 moiety would occur via the CH_2- portion. As such, benzyl is not a carbocycle, which may optionally be substituted, as defined by Applicant and recited in the definition of R^1 of the present invention. In view of this, the '718 Patent's R^1 and R^2 groups cannot encompass Applicant's claimed compounds.

Therefore, the '718 Patent's compounds of formula (I) do not embrace, and are distinctly different from, Applicant's claimed compounds. As such, reconsideration and withdrawal of the obviousness-type double patenting rejection is respectfully requested.

In view of the amendments and remarks set forth above, Applicant believes the present claims to be in condition for allowance and respectfully requests withdrawal of the rejections. Early allowance is therefore solicited. Should the Examiner have any questions, the Examiner is respectfully invited to contact the undersigned attorney at the telephone number set forth below.

Respectfully submitted,

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